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HOUSE BILL 43

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO CAPITAL EXPENDITURES; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS; AUTHORIZING EXPENDITURES FROM CERTAIN FUNDS AND BALANCES; CLARIFYING CONDITIONS FOR THE ISSUANCE OF BONDS; ESTABLISHING CONDITIONS FOR THE EXPENDITURE OF SEVERANCE TAX BOND PROCEEDS; ESTABLISHING CONDITIONS FOR THE REVERSION OF UNEXPENDED BALANCES; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SEVERANCE TAX BONDS--AUTHORIZATIONS--  
APPROPRIATION OF PROCEEDS.--

A. The state board of finance may issue and sell severance tax bonds in compliance with the Severance Tax Bonding Act in an amount not to exceed the total of the amounts authorized for purposes specified in this act. The state board

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1 of finance shall schedule the issuance and sale of the bonds in  
2 the most expeditious and economical manner possible upon a  
3 finding by the board that the project has been developed  
4 sufficiently to justify the issuance and that the project can  
5 proceed to contract within a reasonable time. The state board  
6 of finance shall further take the appropriate steps necessary  
7 to comply with the Internal Revenue Code of 1986, as amended.  
8 Proceeds from the sale of the bonds are appropriated for the  
9 purposes specified in this act.

10 B. The agencies named in this act shall certify to  
11 the state board of finance when the money from the proceeds of  
12 the severance tax bonds authorized in this section is needed  
13 for the purposes specified in the applicable section of this  
14 act. If an agency has not certified the need for the issuance  
15 of the bonds for a particular project, including projects that  
16 have been reauthorized, by the end of fiscal year 2010, the  
17 authorization for that project is void.

18 C. Before an agency may certify for the issuance of  
19 severance tax bonds, the project must be developed sufficiently  
20 so that the agency reasonably expects to:

21 (1) incur within six months after the  
22 applicable bonds have been issued a substantial binding  
23 obligation to a third party to expend at least five percent of  
24 the bond proceeds for the project; and

25 (2) spend at least eighty-five percent of the

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1 bond proceeds within three years after the applicable bonds  
2 have been issued.

3 D. Except as otherwise provided in this section or  
4 another section of this act, the unexpended balance from the  
5 proceeds of severance tax bonds issued for a project, including  
6 projects that have been reauthorized, shall revert to the  
7 severance tax bonding fund as follows:

8 (1) for projects for which severance tax bonds  
9 were issued to match federal grants, six months after  
10 completion of the project;

11 (2) for projects for which severance tax bonds  
12 were issued to purchase vehicles, heavy equipment, educational  
13 technology or other equipment or furniture that is not related  
14 to a more inclusive construction or renovation project, at the  
15 end of the fiscal year two years following the fiscal year in  
16 which the severance tax bonds were issued for the purchase;

17 (3) for projects for which severance tax bonds  
18 were issued to purchase emergency vehicles or other vehicles  
19 that require special equipment, at the end of the fiscal year  
20 two years following the fiscal year in which the severance tax  
21 bonds were issued for the purchase; and

22 (4) for all other projects for which severance  
23 tax bonds were issued, within six months of completion of the  
24 project, but no later than the end of fiscal year 2012.

25 E. Except for appropriations to the capital program

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1 fund, money from severance tax bond proceeds provided pursuant  
2 to this act shall not be used to pay indirect project costs.

3 F. For the purpose of this section, "unexpended  
4 balance" means the remainder of an appropriation after  
5 reserving for unpaid costs and expenses covered by binding  
6 written obligations to third parties.

7 Section 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--  
8 LIMITATIONS--REVERSIONS.--

9 A. Except as otherwise provided in this section or  
10 another section of this act, the unexpended balance of an  
11 appropriation made in this act from the general fund or other  
12 state fund, including changes to prior appropriations, shall  
13 revert to the originating fund as follows:

14 (1) for projects for which appropriations were  
15 made to match federal grants, six months after completion of  
16 the project;

17 (2) for projects for which appropriations were  
18 made to purchase vehicles, heavy equipment, educational  
19 technology or equipment or furniture that is not related to a  
20 more inclusive construction or renovation project, at the end  
21 of the fiscal year two years following the fiscal year in which  
22 the appropriation was made for the purchase;

23 (3) for projects for which appropriations were  
24 made to purchase emergency vehicles or other vehicles that  
25 require special equipment, at the end of the fiscal year two

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1 years following the fiscal year in which the appropriation was  
2 made for the purchase; and

3 (4) for all other projects for which  
4 appropriations were made, within six months of completion of  
5 the project, but no later than the end of fiscal year 2012.

6 B. Upon certification by an agency that money from  
7 the general fund is needed for a purpose specified in this act,  
8 the secretary of finance and administration shall disburse such  
9 amount of the appropriation for that project as is necessary to  
10 meet that need.

11 C. Except for appropriations to the capital program  
12 fund, money from appropriations made in this act shall not be  
13 used to pay indirect project costs.

14 D. The unexpended balance of an appropriation made  
15 from the general fund or other state fund, including changes to  
16 prior appropriations, to the Indian affairs department or the  
17 aging and long-term services department for projects located on  
18 lands of an Indian nation, tribe or pueblo, including projects  
19 that have been reauthorized, shall revert in a time frame set  
20 forth in Subsection A of this section to the tribal  
21 infrastructure project fund.

22 E. For the purpose of this section, "unexpended  
23 balance" means the remainder of an appropriation after  
24 reserving for unpaid costs and expenses covered by binding  
25 written obligations to third parties.

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1           Section 3. STATE ARMORY BOARD PROJECT--SEVERANCE TAX  
2 BONDS.--Pursuant to the provisions of Section 1 of this act,  
3 upon certification by the state armory board that the need  
4 exists for the issuance of the bonds, one million dollars  
5 (\$1,000,000) is appropriated to the state armory board to  
6 demolish old facilities and make upgrades to existing  
7 facilities and staging areas at armories statewide.

8           Section 4. CULTURAL AFFAIRS DEPARTMENT PROJECT--SEVERANCE  
9 TAX BONDS.--Pursuant to the provisions of Section 1 of this  
10 act, upon certification by the cultural affairs department that  
11 the need exists for the issuance of the bonds, five million  
12 dollars (\$5,000,000) is appropriated to the cultural affairs  
13 department for renovations and repairs, including life and  
14 safety, Americans with Disabilities Act of 1990, security and  
15 other upgrades, at state museum and monument facilities  
16 statewide.

17           Section 5. CAPITAL PROGRAM FUND PROJECTS--SEVERANCE TAX  
18 BONDS.--Pursuant to the provisions of Section 1 of this act,  
19 upon certification by the property control division of the  
20 general services department that the need exists for the  
21 issuance of the bonds, the following amounts are appropriated  
22 to the capital program fund for the following purposes:

23                   1. four million dollars (\$4,000,000) to plan,  
24 design and construct kitchen renovations at correctional  
25 facilities in Los Lunas in Valencia county, Las Cruces in Dona

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1 Ana county and Roswell in Chaves county;

2 2. five million dollars (\$5,000,000) for security  
3 upgrades, equipment and renovation at correctional facilities  
4 statewide;

5 3. five million dollars (\$5,000,000) for repairs,  
6 upgrades and equipment at correctional facilities statewide,  
7 including roof replacement, wastewater systems, paving,  
8 structural renovations and heating, ventilation and air  
9 conditioning systems; and

10 4. three million dollars (\$3,000,000) to plan,  
11 design, construct and equip upgrades to department of health  
12 facilities to address building deficiencies statewide.

13 Section 6. STATE FAIR COMMISSION PROJECT--GENERAL FUND.--  
14 Five million five hundred thousand dollars (\$5,500,000) is  
15 appropriated from the general fund to the state fair commission  
16 for expenditure in fiscal years 2008 through 2012, unless  
17 otherwise provided in Section 2 of this act, to plan, design  
18 and construct a food court and central entertainment zone,  
19 including landscaping and a stage for performances, at the New  
20 Mexico state fairgrounds in Albuquerque in Bernalillo county.

21 Section 7. CUMBRES AND TOLTEC SCENIC RAILROAD COMMISSION  
22 PROJECT--GENERAL FUND.--Two million dollars (\$2,000,000) is  
23 appropriated from the general fund to the Cumbres and Toltec  
24 scenic railroad commission for expenditure in fiscal years 2008  
25 through 2012, unless otherwise provided in Section 2 of this

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1 act, to upgrade the track and railbed of the Cumbres and Toltec  
2 scenic railroad in Rio Arriba county.

3 Section 8. DEPARTMENT OF GAME AND FISH PROJECT--GENERAL  
4 FUND.--Two million five hundred thousand dollars (\$2,500,000)  
5 is appropriated from the general fund to the department of game  
6 and fish for expenditure in fiscal years 2008 through 2012,  
7 unless otherwise provided in Section 2 of this act, for  
8 renovation of Lake Roberts dam and spillway in Silver City in  
9 Grant county.

10 Section 9. MINERS' COLFAX MEDICAL CENTER PROJECT--MINERS'  
11 TRUST FUND.--Six hundred thousand dollars (\$600,000) is  
12 appropriated from the miners' trust fund to the miners' Colfax  
13 medical center for expenditure in fiscal years 2008 through  
14 2012, unless otherwise provided in Section 2 of this act, to  
15 make capital improvements, including stuccoing and paving  
16 parking lots, and to purchase and install equipment, including  
17 a bone density scanner and anesthesia machine, at the miners'  
18 Colfax medical center in Raton in Colfax county.

19 Section 10. PROJECT SCOPE--EXPENDITURES.--If an  
20 appropriation for a project authorized in this act is not  
21 sufficient to complete all the purposes specified, the  
22 appropriation may be expended for any portion of the purposes  
23 specified in the appropriation. Expenditures shall not be made  
24 for purposes other than those specified in the appropriation.

25 Section 11. ART IN PUBLIC PLACES.--Pursuant to Section  
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1 13-4A-4 NMSA 1978 and where applicable, the appropriations  
2 authorized in this act include one percent for the art in  
3 public places fund.

4 Section 12. EMERGENCY.--It is necessary for the public  
5 peace, health and safety that this act take effect  
6 immediately.

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